



PROBATION AND PAROLE BUREAU STANDARD OPERATING PROCEDURES

Procedure No.: P&P 20-5	Subject: LEGAL ASSISTANCE FOR STAFF
Reference: DOC 1.1.9 2-9-305, MCA ; 53-1-201, 203, MCA	Page 1 of 2
Effective Date: 06/01/00	Revision Dates: 09/20/01; 10/06/08
Signature / Title: /s/ Ron Alsbury	

I. BUREAU DIRECTIVE:

The Probation & Parole Bureau will provide staff with legal advice and assistance specific to their needs in the management of programs via the Department of Corrections' Legal Services Unit. It is the purpose of this procedure to outline the system of assistance that will be available to staff in the event general counsel is required.

II. DEFINITIONS:

None

III. PROCEDURES:

A. Availability of Counsel

The Department of Corrections' (Department) attorneys will generally be available for legal advice and consultation. A central email address for the Legal Services Unit (Legal) has been established at "COR Legal Unit."

Staff may confer with attorneys for the following reasons:

1. Developing and evaluating Probation & Parole Bureau (Bureau) procedures;
2. Advising the Bureau Chief of necessary adjustments in procedure necessitated by a changing legal climate, including implementing court decisions relating to specific operations and offender rights;
3. Evaluating unusual operational issues; and
4. Evaluating and defending legal actions against the Bureau, or Bureau employees, including answering motions, preparing responses to interrogatories, and assisting in any other legal activity against Bureau staff for actions taken during the legal performance of their duties.

Legal assistance will be provided in connection with litigation filed against the Bureau or an individual staff member. All actions filed against the Department, a facility or an individual staff member will be handled directly by Department counsel in the Central Office.

In cases where such representation may constitute a conflict of interest, or there are other ethical or legal reasons to do so, the Department may retain other counsel, subject to applicable state regulations.

Should substantial evidence indicate an employee's conduct was illegal or outside the scope and course of employment, legal representation may be denied.

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An employee being sued may retain private counsel at their own expense. If private counsel is retained, Legal will be notified immediately.

B. Employee Responsibility

Employees are responsible for providing Legal with all documents, subpoenas, and other materials related to any legal action to which they are a part. Staff must cooperate fully with the attorneys who defend them.

1. Requests for Legal Assistance

- a. If legal assistance is necessary to perform official duties, employees should first contact their immediate supervisor for discussion.
- b. If it is determined that assistance from Legal is needed, employee should email request to the "COR Legal Unit" address with a copy to the supervisor. The assigned attorney will contact the employee as best determined by the attorney.
- c. In an emergency, if a supervisor is not available, the employee may directly contact an attorney by whatever means is available.

2. Receiving Complaints, Petitions, Summonses and Subpoenas

- a. When an employee receives a complaint, petition, summons or subpoena concerning a work-related issue outside of routine offender court proceedings, the employee must do the following as soon as possible:
 - i. note the date, time and method the document was received;
 - ii. contact Legal immediately;
 - iii. make a personal copy of the document; and
 - iv. forward all the documents to Legal at Central Office.
- b. The employee may sign that they have received the document. They may not sign to accept the document on behalf of any other employee unless specifically designated to do so.
- c. The employee must NOT sign and return a form titled, "Acknowledgement of Service" if received, but must immediately forward the complaint and acknowledgement to Legal.

3. Subpoenas and Summonses to Appear and Testify

- a. Employees will notify supervisor and immediately forward a copy of the document to Legal.
- b. Employee will respond to the subpoena in an on-duty status and submit all necessary expenses per established procedures unless the entity or person originating the subpoena prepays such expenses.
- c. Employees will forward any witness fees received or state vehicle mileage allowance to the fiscal and accounting bureau.
- d. Employees subpoenaed in a civil or criminal case as a personal consultant (non-work related) or expert witness will respond to the subpoena on approved leave and at their own expense.

IV. CLOSING:

Questions concerning this procedure shall be directed to the Bureau Chief, Regional Administrator, or the Legal Services Unit.